

August 25, 2009

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File Nos. **L09P0001 & L09VA001**
Proposed Ordinance No. **2009-0402**

PARK LAKE HOMES II
Preliminary Plat and
Demonstration Project Modification/Waiver Application

Location: Southwest corner of Southwest 108th Street and
4th Avenue Southwest intersection

Applicant: King County Housing Authority
represented by **Robert D. Johns**
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King County: Department of Development and Environmental Services (DDes)
represented by **Lisa Dinsmore**
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SUMMARY OF RECOMMENDATIONS/DECISION:

Department's Preliminary Recommendation:
Department's Final Recommendation:
Examiner's Decision:

Approve subject to conditions
Approve subject to revised conditions
Approve subject to revised conditions

EXAMINER PROCEEDINGS:

Hearing Opened:
Hearing Continued:

August 11, 2009
August 11, 2009

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:**1. General Information:**

Owner/Developer:	King County Housing Authority 600 Andover Park West Tukwila, WA 98188-3326 (206) 574-1100
Engineer:	Goldsmith PO Box 3565 Bellevue, WA 98009 (425) 462-1080
STR:	SE-06-23-04
Location:	The site is located at the southwest corner of the SW 108th Street and 4th Avenue SW intersection. The property extends southerly to approximately SW 115th Street.
Zoning:	R-18
Acreage:	Approximately 31.56 acres
Number of Lots:	147
Minimum Density:	260 units
Lot Size:	Ranges from approximately 1,800 to 84,000 square feet
Proposed Use:	275 – 315 total housing units (attached duplex and townhome structures, multifamily units, single family detached units on individual lots and senior housing). The existing Head Start Learning Center will remain with the development.
Sewage Disposal:	Southwest Suburban Sewer District
Water Supply:	Seattle Public Utilities
Fire District:	North Highline Fire District 11
School District:	Highline School District 401
Application Completeness Date:	February 26, 2009
Associated Applications:	Road Variance File No. L09V0016 Drainage Adjustment File No. L09V0031

2. Except as modified herein, the facts set forth in the DDES reports to the Examiner and in DDES and King County Department of Transportation (KCDOT) testimony are found to be correct and are incorporated herein by reference.
3. The site is located in the Top Hat neighborhood southeast and east of White Center, in an unincorporated area between the Cities of Seattle and Burien west of SR 509. The subject property is an odd-shaped parcel (essentially a rectangle in the north portions with some wedge shapes modifying the roughly rectangular southern portion) which is 31.56 acres in area. It is long and narrow, with the longest dimension on the north-south axis and corresponding to the property's frontage length on the west side of 4th Avenue Southwest, a collector arterial road. The north boundary fronts the south side of Southwest 108th Street, a minor arterial. The southern boundary lies slightly to the north of Southwest 116th Street, a collector arterial; the excepted corner is occupied by a county recreation facility.
4. The property is the site of the existing *Park Lake Homes II* residential community operated by the King County Housing Authority, developed originally in the 1940s and redeveloped in the 1960s. The existing development consists of 165 dwelling units of low-rise attached rental housing with attendant grounds and facilities, including a Head Start Learning Center developed in the west portion.
5. The site terrain generally slopes to the south and also the west toward Lake Hicks (aka Lake Garrett), generally of moderate slopes except for those along the east edge of the property (descending sharply from the 4th Avenue Southwest frontage) and from near the west edge toward the Lake Hicks environs, which are established as Lakewood County Park. No defined critical area wetlands or aquatic areas are identified on or in regulatory proximity to the property. Vegetation consists of grass lawn and some cultivated landscaping, scattered trees and understory among the developed residences. In the southernmost section of the site (within the areas of proposed Lots 1 and 50), a Category II Critical Aquifer Recharge Area (CARA) is mapped, which signifies that it overlies groundwater resources susceptible to groundwater contamination. It does not overlay a sole source aquifer or lie within a wellhead protection area.
6. The surroundings of the property are developed with residences to the north and east; the aforementioned King County recreational facility to the south; the Evergreen High School and Cascade Middle School complexes to the southwest and west, respectively, of the southern portion with intervening attendant athletic fields; and the aforementioned Lakewood County Park to the west of the northern portion of the site.
7. The zoning of the property is R-18. A minimum density of 260 units is required of development of the site under county code.
8. Applicant King County Housing Authority proposes to redevelop the site with 275 to 315 dwelling units in a mixed-use project. One hundred forty seven discrete development lots are proposed, as well as tracts for parks and recreation and drainage facilities. Senior housing will be provided in a multi-story multiple residential building, which will have a small amount of retail space and indoor recreational facilities. The remainder of the lots will accommodate the existing Head Start Learning Center and a range of housing types and densities ranging from townhouse to duplex to multi-story attached housing units.
9. The development is proposed as a formal low-impact/Built Green demonstration project authorized by KCC 21A.55.060. Chapter 21A.55 KCC encourages innovative approaches to land development incorporating low-impact design and affordable housing. Part of the

demonstration project authorization allows for modification of zoning code standards through a modification/waiver process, which is part of the proposal before the Hearing Examiner. (See modification/waiver Finding 18 below.)

10. As part of the development project, the Applicant may proceed with constructing some of the development's attached housing prior to final platting. Discussion of that possibility occurred in the review and hearing on this matter (particularly with respect to access provisions and applicability of similar development conditions as are recommended for the preliminary plat approval), but the issue is not under Hearing Examiner jurisdiction. It is subject to DDES's administrative building permit authority. (The Examiner shall accordingly refrain from imposing the recommended condition language pertaining to independent building permit review. Mitigation measure conditions imported from the pertinent environmental review shall not be disturbed, however. See Condition 23.)
11. Public water and sanitary sewer service are available to the development.
12. As part of the development's traffic impact mitigation, channelization and signage improvements are to be made at the 4th Avenue Southwest/Southwest 108th Street intersection to alleviate a crest vertical curve sight distance limitation on 4th Avenue Southwest, as reflected in the conditions below. The timing of such improvements has not been incorporated in the mitigation measure language or in the Department recommendation and shall be added by the Examiner. The timing requirement shall call for installation of such improvements to have been completed prior to occupancy of the first dwelling unit of the development which exceeds the number of existing dwelling units (165) on the property.
13. School pedestrian safety will be adequately provided by internal sidewalk improvements and existing sidewalks on the pedestrian routes to assigned public schools.
14. A variance to certain road standards has been granted by the county road engineer for the internal streets. That matter is not directly under Hearing Examiner jurisdiction; the Examiner finds that, accounting for the road variance, the development's proposed street layout and intersections, along with its traffic impact mitigation measures, make "appropriate provisions" for streets and roads.
15. The property lies within the Salmon Creek drainage basin with site drainage flow ultimately to the aforementioned Lake Hicks to the west. The plat development is subject to the Basic Flow Control and Sensitive Lake Water Quality Requirements of the 2009 King County Surface Water Design Manual (KCSWDM). Compliance with KCSWDM specifications is shown to be feasible. (A Drainage Adjustment (L09V0031) application has been submitted to DDES and is under review. The request is to combine certain facilities; if the adjustment is not approved, certain other facilities will be required instead of the combination, potentially leading to the loss of two developable lots as the development is current designed.)
16. The recreation space locations and facilities proposed by the Applicant have been shown to provide an adequate location array and range of facilities. Pursuant to KCC 21A.14.180.B.4 and C.6, DDES has approved the alternative location of multiple recreation sites scattered within the development rather than a single centralized location, which is appropriate given the size and development layout of the development. The range of locations and facilities will offer sufficient convenience to development residents. It is noted that the aforementioned county recreation facility, school athletic fields and the county park, all directly adjacent, provide additional opportunities and resources. The Applicant has made revisions to the recreation offerings to

bring the proposal into sufficient regulatory compliance. In particular, a par course has been added as a major recreational facility, as an alternative to sport court/field facilities, as approved by DDES under KCC 21A.14.180.E.2.

17. As recommended to be revised by DDES reflected in the department report and subsequent revisions, the Applicant's proposed code modifications/waivers requested under the KCC 21A.55.060 demonstration project authorization conform to the approval criteria set forth in KCC 21A.55.060.L. The revised modifications/waivers are reflected in substitute pertinent code excerpts contained in Attachments K-O of the department report (Exhibit 3).

CONCLUSIONS:

1. The requested demonstration project modification/waivers, as recommended to be revised by DDES and reflected in the DDES department report, attachments and revision, comply with the pertinent review criteria and merit approval.
2. The proposed subdivision, as conditioned below, would conform to applicable land use controls, as modified/waived through the demonstration project process of KCC 21A.55.060. In particular, the proposed type of development and overall density are specifically permitted under the assigned R-18 zone.
3. If approved subject to the conditions below, the proposed subdivision will make appropriate provisions for the topical items enumerated within RCW 58.17.110, and will serve the public health, safety and welfare, and the public use and interest.
4. The conditions for final plat approval set forth below are reasonable requirements and in the public interest.
5. The dedications of land or easements within and adjacent to the proposed plat, as shown on the revised preliminary plat submitted on May 4, 2009, or as required for final plat approval, are reasonable and necessary as a direct result of the development of this proposed plat, and are proportionate to the impacts of the development.

DECISION:

The requested KCC 21A.55.060 demonstration project code modifications/waivers and the preliminary plat of the *Park Lake Homes II*, as revised and received May 4, 2009, are approved subject to the following conditions of approval:

1. Review Process
 - A. Preliminary Approval

Per KCC 19A.12.020(G), as the application has received preliminary approval prior to December 31, 2011 and if the applicant meets the provisions of subsections a, b and c, this preliminary subdivision approval shall be effective for eighty-four months.

B. Built Green™

1. A three-star rating for the project site under the Built Green™ "Green Communities" Program must be achieved. This note shall be shown on the face of the final plat.
2. Design and construct the Senior Building to meet a three-star rating under the Built Green™ Program for multifamily construction. This note shall be shown on the face of the final plat unless the building has received a certificate of occupancy prior to final plat recording.

C. The plat development shall have a minimum density of 260 units and a maximum of 315 units. All dimensions of the lots shall be shown on the face of the approved final plat. Minor revisions to the plat may be approved at the discretion of DDES as described in Condition 5.

2. Site Development Standards

The site development standards specified below apply to all developments within Park Lake Homes II. These standards supersede and modify Title 21A Zoning Code development standards for density and dimensions, design, parking, and landscaping. Title 21A development standards which are not specifically modified shall apply. Further modifications to the site development standards may be approved pursuant to Condition 5.

A. Density and Dimensions

The density and dimension standards are provided in Attachment K of Exhibit 3. A note shall be placed on the final plat requiring conformance with these standards.

B. Design Requirements

The design requirements are provided in Attachment L of Exhibit 3. A note shall be placed on the final plat requiring conformance with these standards.

C. Landscaping

The landscape requirements are provided in Attachment M of Exhibit 3. A note shall be placed on the final plat requiring conformance with these standards.

D. Parking and Circulation

The parking and circulation requirements are provided in Attachment N of Exhibit 3. A note shall be placed on the final plat requiring conformance with these standards.

E. Permitted Uses

The permitted uses are provided in Attachment O of Exhibit 3. A note shall be placed on the final plat requiring conformance with these standards.

3. Other Development Standards

Except as modified in this approval, all County codes and regulations adopted and in effect on the date of application completeness for the preliminary plat (February 26, 2009) shall apply to Park Lake Homes II.

4. Vesting of Development Standards, Mitigation, and Fees

All development within Park Lake Homes II shall be governed by the development standards in effect on February 26, 2009 and as approved in this permit, notwithstanding any conflicting or different development standards or requirements elsewhere in County code. These standards shall be implemented through plats, binding site plans, building and grading permits and other permits and approvals from the County. During the buildout period, the County shall neither modify or impose new or additional conditions or impact fees beyond those set forth in this permit nor apply subsequently adopted ordinances or other regulations, except as follows:

- A. Building permit applications shall be subject to building codes in effect at the time of application for each given building permit
- B. Application and review fees for subsequent permits and approvals shall be those fees in effect at the time of future applications.
- C. Where King County determines subsequently adopted standards are necessary to address imminent public health and safety hazards or new conditions are imposed to facilitate a major permit modification.

5. Flexibility and Modification of Standards

K.C.C. 21A.55.060 (J) acknowledges the possibility that site plan elements or conditions of approval of the preliminary plat may be requested to be amended or modified. This section provides a framework for distinguishing various types of modifications and the process necessary to review such modifications.

Three categories or levels of preliminary plat modifications have been identified and are provided below: Authorized Modifications, Minor Modifications and Major Modifications. The Director of DDES, or his/her designee, shall have the authority to review and render decisions on Authorized Modifications and Administrative Minor Modifications. Major modifications shall be treated as new applications.

A. Authorized Modifications:

- 1. Changes in the location and number of overall dwelling units, provided:
 - a. the total number of dwelling units is no greater than 315 (the maximum number approved);
 - b. the total number of dwelling units is no less than 260 (the minimum density required); and

2. Changes in the location and number of lots (i.e. consolidate, alter, reconfigure or relocate lots), provided
 - a. the total number of lots identified for construction of buildings is not increased above 147.
3. Changes in the location and number of dwelling units for the development blocks provided:
 - a. the number of dwelling units does not increase above the maximum number of units proposed for the identified block.
 - b. the number of lots does not increase above the maximum number of lots proposed for the identified block, except that within the Neighborhood Core any number of lots may be allowed provided the overall number of lots does not exceed 147.
4. Minor changes in the location and size of recreational tracts, recreation facilities or trails for the overall Park Lake Homes II site, provided the total area improvements provided in recreational tracts complies with the requirements set forth in K.C.C. 21A.14.180 as calculated based on the number of units achieved and documented through the final plat process.
5. Minor changes in the location of the residential building types (i.e., single-family detached, townhouse, "over/unders", and apartments) provided that apartments over 3 stories are not permitted within the Residential Area.
6. Changes in the location of buildings and uses within the Neighborhood Core as depicted on the approved preliminary plat Unit Range Plan.
7. Code modifications submitted in conjunction with the authorized changes listed above.
8. Minor changes in lot size, lot configuration and internal road patterns resulting from changes in the density or intensity described above.
9. Other amendments or modifications requested by the applicant, which DDES determines to be reasonably consistent with the pre-approved ranges or development standards of the Park Lake Homes II demonstration project.

The director/designee shall review each requested authorized modification to verify that the modification requested is within the scope of those identified above and to verify that no other regulated feature has been affected by the authorized modification. If these verifications are made, the request will be granted. If these verifications are not made, the request may be considered as a minor or major modification of consideration under those standards provided in the following two sections.

B. Administrative Minor Modifications:

1. Modifications which convert streets proposed as public to private streets, excluding 4th Place SW and 5th Avenue SW, except as a major modification.

2. Minor changes to the location and design of roads. However, changes to the design standards which are not consistent with the provisions of this permit or the King County Road Standards will be subject to approval by the County Road Engineer.
3. Changes in the number of dwelling units proposed for an identified block, provided the overall number of dwelling units shall not exceed 315.
4. Code modifications submitted in conjunction with the authorized changes listed above.
5. The applicant's election to comply with a county standard adopted subsequent to the approval of this project, if the director/designee determines that no interdependency or critical relationship to other development standards exist.
6. Other amendments or modifications to the preliminary plat or preliminary plat conditions which DDES determines to be reasonably consistent with the purpose of the approved uses and development standards for the Park Lake Homes II demonstration project.

The director/designee may approve, or approve with conditions, the requested minor modification upon determining that the proposed modifications reasonably meet or exceed the protections provided by the original requirement; otherwise, it shall be denied. No separate variance or other revision procedure is required hereunder, except as may be required by the County Road Engineer. The decision shall be provided in writing, and King County shall maintain a cumulative list of all approved administrative minor modifications. The time period for review shall be consistent with the time period established for the underlying permit.

C. Major modifications:

Proposed major modifications shall be reviewed through the hearing process. For vesting purposes, a major modification is considered to be a new application when:

1. Changes in the number of residential units where the change will result in an increase above the maximum number of units (315).
2. Changes in the number of residential units where the change will result in a decrease below the minimum number of units (260).
3. Changes in the number of lots where the change will result in an increase above the maximum number of lots (147).
4. Increase in the neighborhood core area boundaries.
5. Any other change which does not qualify (or was denied) as an administrative minor modification.

- D. Proposed major modifications shall be reviewed using the same procedures and requirements as a Type 3 land use decision. For vesting purposes, a major modification is considered to be a new application. However, the change in vesting shall only apply to that aspect of the development approval being proposed for major modification.
6. Review Process for Future Code Modifications and Waivers
- A. Except as provided in Condition 5.B.5 above, the range of proposed future modifications and waivers to develop regulations shall only include the following King County code regulations and related public rules:
 - 1. Drainage review requirements pursuant to K.C.C. Chapter 9.04 and the 2009 Surface Water Design Manual.
 - 2. King County Road Standards pursuant to K.C.C. 14.42 and the 2007 King County Road Design and Construction Standards.
 - 3. Density and Dimension standards established by K.C.C. Chapter 21A.12, except as otherwise specifically provided in this condition.
 - 4. Design Requirements established by K.C.C. Chapter 21A.14, which are not authorized changes.
 - 5. Landscaping and Water Use requirements established by K.C.C. Chapter 21A.16 which are not authorized changes.
 - 6. Parking and Circulation requirements established by K.C.C. Chapter 21A.18 which are not authorized changes.
 - 7. Sign requirements established by K.C.C. chapter 21A.20.
 - 8. Critical Areas requirements established by K.C.C. Chapter 21A.24, provided such modifications and waivers must comply with the requirement of K.C.C. 21A.55.060(D)(8).
 - 9. Uses established by K.C.C. 21A.55.060E, including modifications and waivers of requirements of K.C.C. 21A.08.030, 21A.08.040, 21A.08.050, 21A.08.060, 21A.08.070, 21A.08.080 and 21A.08.100.
 - B. The procedure for review of future code modifications and waivers shall be as follows:
 - 1. The applicant shall submit a written request for a waiver or modification, together with supporting documentation, which it believes to be a qualified modification or waiver either before or in conjunction with an application for one of the following permits, including implementation approvals (e.g. final plat approval):
 - a. a site development permit,
 - b. a binding site plan,

- c. a building permit,
 - d. a short subdivision,
 - e. a subdivision,
 - f. a conditional use permit,
 - g. a clearing and grading permit.
 - 2. Except for an applicant's request for a modification or waiver that implements the preliminary plat approval, is in conjunction with a preliminary plat amendment or modification request, or is a new subdivision, modification or waiver, applications shall be Type II decisions. Drainage adjustments and road variances shall be handled per K.C.C. 9.04 and K.C.C. 14.42 respectively. Requests in conjunction with a preliminary plat amendment or modification shall be reviewed as authorized as minor preliminary plat amendments or modifications, provided the application shall meet the review standards set forth below.
 - 3. If the reviewing department determines that the request complies with the standards set forth below, the modification or waiver shall be approved.
 - 4. Any appeal regarding a requested modification or waiver shall be consolidated with an appeal of the underlying permit.
7. Review Criteria for Code Modifications and Waivers
- A. Proposals to modify or waive development regulations for a development application must be consistent with general health, safety and public welfare standards, and must not violate state or federal law.
 - 1. Applications must demonstrate how the proposed project, when considered as a whole with the approved preliminary plat/subdivision modifications and proposed modifications or waivers to the code, will meet all of the criteria listed in this subsection, as compared to development without the modification or waiver, and achieves higher quality urban development; enhances infill, redevelopment and greenfield development; optimizes site utilization; stimulates neighborhood redevelopment; and enhances pedestrian experiences and sense of place and community.
 - 2. Any individual request for a modification or waiver, when considered together with the approved preliminary plat/subdivision modifications, must meet two or more of criteria as follows:
 - a. uses the natural site characteristics to protect the natural systems;
 - b. addresses stormwater and drainage safety, function, appearance, environmental protection and maintainability based upon sound engineering judgment;

- c. contributes to achievement of a two-star or a three-star rating for the project site under the Built Green™ "Green Communities" program recognized by the Master Builders Association of King and Snohomish Counties; or
 - d. where applicable, reduces housing costs for future project residents or tenants without decreasing environmental protection.
3. The criteria of this section supercede other variance, modification or waiver criteria and provisions of K.C.C. Title 9 and Title 21A.

8. Community-Oriented Uses

There shall be a maximum of 16,500 square feet (floor area) of non-residential uses in the Neighborhood Core of the project, excluding the any parking area for such uses. The retail portion shall not exceed 2,000 square feet (floor area).

9. Submittals

The development shall comply with all platting provisions of Title 19A of the King County Code. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.

10. The applicant shall obtain documentation by the King County Fire Protection Engineer certifying compliance with the fire flow standards of Chapter 17.08 KCC.

11. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the approved preliminary plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the King County Surface Water Design Manual (KCSWDM) must also be satisfied during engineering and final review. Plans submitted with building permits are expected to meet all of these conditions.

A. Drainage plans and analysis shall comply with the 2009 KCSWDM and applicable updates adopted by King County in effect on February 26, 2009. DDES approval of the drainage and roadway plans is required prior to any construction.

B. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.

C. The following note shall be shown on the final recorded plat:

“All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed

and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file.”

- D. The drainage facilities shall meet the requirements of the 2009 KCSWDM. The drainage design shall meet at a minimum the Level 1 Flow Control and the Sensitive Lake Water Quality Treatment requirements in the KCSWDM. The Level 1 Downstream Analysis identified Lake Hicks as a Bacteria Problem (Downstream Water Quality Problem Type 1).
 - E. Drainage Adjustment (L09V0031) has been submitted and is currently being reviewed for this site. This adjustment must be approved prior to issuance of building permit B09L0127. If the adjustment is not approved by this time, the applicant must install a presettling pond or vault per 2009 KCSWDM Section 6.5.1. If a pond is installed, this project would lose an approximate area equivalent to 2 lots (lots 37 and 38). All conditions of approval for this adjustment shall be met prior to engineering plan approval.
 - F. To implement the required Best Management Practices (BMP's) for treatment of storm water, the final engineering plans and technical information report (TIR) shall clearly demonstrate compliance with all applicable design standards. The requirements for best management practices are outlined in Chapter 5 of the 2009 KCSWDM. The design engineer shall address the applicable requirements on the final engineering plans and provide all necessary documents for implementation. The final recorded plat shall include all required covenants, easements, notes, and other details to implement the required BMP's for site development.
 - G. The mapped Critical Aquifer Recharge Area (CARA) has been overlaid onto the preliminary plat map and indicates that lots 1 and 50 lie within the CARA. KCSWDM Section 5.2.1.1 (3), Small Lot BMP Requirement, requires that BMP's must be applied to an impervious area equal to 20% of the lot; this shall only apply to those lots that lie within the CARA. Note this requirement is covered in Condition F above.
12. The proposed subdivision shall comply with the 2007 King County Road Design and Construction Standards (KCRDCS), including the following requirements:
- A. Engineering plans shall be prepared in accordance with the design requirements outlined the County Road Engineer's conditional approval of Variance L09V0016, dated June 15, 2009, as shown in Attachment 2 (design criteria included)
 - B. The applicant shall dedicate an additional 12 feet of right-of-way across the entire frontage of the subdivision on 4th Avenue SW and SW 108th Street. No direct driveway access to abutting lots shall be allowed from either arterial frontage. A note regarding the access restriction shall be placed on the engineering plans and the final plat map.
 - C. The 5th Avenue SW 'spine road' (extending to 4th Avenue SW via SW 109th and SW 115th) shall be constructed to the urban subcollector, except as modified by the Variance decision (L09V0016) dated June 15, 2009.

- D. 4th Place SW shall be constructed to the urban subaccess street classification from SW 109th Street to SW 115th Street, except as modified by the Variance decision (L09V0016) dated June 15, 2009.
 - E. SW 111th Place shall be constructed to the urban minor access street classification, except as modified by the Variance decision (L09V0016) dated June 15, 2009.
 - F. SW 111th Street shall be constructed to the urban minor access street classification, except as modified by the Variance decision (L09V0016) dated June 15, 2009.
 - G. All construction and upgrading of public and private roads shall be done in accordance with King County Road Design and Construction Standards established and adopted by Ordinance No. 11187, as amended (2007 KCRDCS) or as approved by Road Variance L09V0016.
- 13. Prior to, or in conjunction with, engineering plan approval for Phase I improvements, sign a reimbursement agreement with King County DOT to fully fund the identified channelization and signage modifications to address project impacts at HAL #31 (4th Avenue SW/SW 108th Street). This reimbursement agreement will be separate from the agreement that will be required to fund internal street signage: STOP signs, street name signs, etc. Installation of such improvements shall be completed and accepted by King County prior to occupancy of the first dwelling in the development over and above 165 dwelling units.
 - 14. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
 - 15. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application. The applicants may request an exemption, through King County Housing and Community Development, for the Roads MPS fee for qualifying low- and moderate-income homes.
 - 16. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat, based on the dwelling unit type, and shall be collected prior to building permit issuance, using the fee scheduled in effect at the time of building permit issuance.
 - 17. Preliminary plat review has identified the following specific geotechnical requirements which apply to this project:
 - A. All grading, construction, and construction-related work shall be accomplished in accordance with all project geotechnical reports and recommendations, including those

provided in reports by GeoEngineers (dated January 16, 2009) and Lorilla Engineering (dated January 15, 2009, included as Appendix C to the January 16, 2009 GeoEngineers report).

- B. All grading and construction plans pursuant to the redevelopment of the plat shall be reviewed and approved by the applicant's geotechnical engineer prior to issuance of any applicable building or grading permits. For each proposed building or grading activity, the engineer shall provide a letter of approval referring to the final plan set for that activity.
- C. All grading and construction activities pursuant to the redevelopment of the property shall be subject to inspections and approvals during construction by the applicant's geotechnical engineer, at intervals or for activities as determined at the time of building/grading permit review. Written certifications shall be presented to the King County building inspector by the applicant's geotechnical engineer to record these inspections and approvals. These inspections may include, but not be limited to, the following:
 - 1. The applicant's project geotechnical engineer shall continuously monitor all grading and excavation. The engineer shall confirm that erosion and sedimentation controls are adequate and sufficient for site conditions. Temporary, unsupported cut slopes shall not exceed the height or slope angle recommended by the geotechnical engineer, and shall conform to all applicable WISHA and OSHA regulations.
 - 2. After excavation and prior to concrete placement, all foundation-bearing soils shall be inspected and approved by the geotechnical engineer or the engineer's designated representative.
 - 3. Structural fill placement shall be monitored and approved in writing by the geotechnical engineer or engineer's designated representative.
 - 4. The project geotechnical engineer shall undertake periodic inspections of the erosion and sedimentation controls at intervals sufficient to confirm both compliance with the plans and on-site effectiveness of the control measures.
- D. The applicant's project geotechnical engineer shall coordinate with the contractor to observe and monitor removal and disposal of all contaminated soils or fill. Soils contaminated with petroleum hydrocarbons were found at test pit locations ETP-5 / TP-18 (geotechnical report by GeoEngineers dated January 16, 2009) at an approximate depth of 11.5 feet in the area of Lot 50 of the plat. Removal of contaminated soil shall be done by appropriately trained personnel following local, State, and Federal rules and regulations for excavation work, worker safety, and the treatment of hazardous waste. Excavation shall be limited to prevent destabilization of the existing rock wall along the west side of 4th Avenue SW. Upon completion, engineer shall provide written confirmation of same to the building inspector, with confirmation that either all hazardous materials have been removed and appropriately disposed of or otherwise contained.

18. Suitable recreation space shall be provided consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190 (i.e., sport court[s], children's play equipment, picnic table[s], etc.).
 - A. A phased detailed recreation space plan (i.e., landscape specs, equipment specs, etc.) consistent with the overall conceptual plan shall be submitted to DDES for review and approval prior to or concurrent with the submittal of the final plat documents or prior to approval of a building permit, whichever is first.
 - B. A performance bond, if necessary, for recreation space improvements shall be posted prior to recording of the plat or the approval of a building permit containing recreation space and facilities, whichever is first.
19. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation and/or open space.
20. Street trees shall be provided as follows (per KCRDCS 5.03 and KCC 21A.16.050). See Attachment M for additional conditions:
 - A. The applicant shall submit a street tree plan and bond quantity worksheet for review and approval by DDES prior to engineering plan approval (if required), or if engineering plans are not required, at the time of the required pre-construction meeting. As an alternate, the street tree plan and bond quantity worksheet may be submitted for review and approve by DDES prior to building permit approval and issuance.
 - B. If street trees are proposed along SW 108th Street or 4th Avenue SW, the street tree plan shall be reviewed by Metro as SW 108th Street and 4th Avenue SW are on a bus route.
 - C. The street trees must be installed and inspected, or a performance bond posted (if applicable) prior to recording of the plat or at issuance of the building permit, whichever is first. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat or within three months of final occupancy, whichever is first. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.
 - D. A landscape inspection fee shall also be submitted prior to plat recording or building permit issuance, whichever is first. The inspection fee is subject to change based on the current County fees.
21. **SPRINKLER REQUIREMENT:** Any future residences constructed within this subdivision are required to be sprinkled unless the requirement is removed by the King County Fire Marshal or his/her designee.
22. In the event that any archaeological objects are uncovered on the site, the applicant shall comply with RCW Chapter 27.53, Archaeological Sites and Resources. Immediate notification and consultation with the State Office of Archaeology and Historical Preservation, King County

Office of Cultural Resources and relevant tribes (including the Suquamish, Puyallup and Muckleshoot tribes) is required if discovered materials are prehistoric and/or an archaeological site is present.

23. The following conditions have been established under SEPA authority as requirements necessary to mitigate the adverse environmental impacts of this development. These mitigation measures were adopted to eliminate or minimize adverse environmental impacts. The applicant shall demonstrate compliance with these items, where applicable, prior to final plat approval or issuance of a building permit, whichever is first:

A. Transportation Mitigation

Mitigate the safety impacts at the intersection of 4th Avenue SW and SW 108th Street with the recommended improvements identified in the King County High Accident Location (HAL) 31 Report, which include “Left Turn Must Yield” signs, improving sight distance, and adding eastbound and westbound left-turn lanes since this could be accomplished without widening the roadway. (See Condition 13 regarding separate regulatory timing requirements.)

B. Noise

Mitigate noise levels adjacent to SW 108th Street to reduce the impacts of traffic noise on the site through a noise barrier, redesign of site layout or other measures to meet HUD standards. A note to this affect shall be placed on the final plat or shall be addressed through a building permit, whichever is first.

C. Hazardous Materials

Manage hazardous materials identified in one limited area of fill on site to achieve Model Toxics Control Act compliance. A note to this affect shall be placed on the final plat or shall be addressed through a building permit, whichever is first.

ORDERED August 25, 2009.

Peter T. Donahue
King County Hearing Examiner

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before September 8, 2009***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before September 15, 2009***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. If the Office of the Clerk is not open on the specified closing date, delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within 14 calendar days of the date of this report, or if a written appeal statement and argument are not filed within 21 calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE AUGUST 11, 2009, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NOS. L09P0001 AND L09VA001 FOR PARK LAKE HOMES II PROJECT.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Lisa Dinsmore, Arlene Mariano, Claire Johnson, Kristen Langley and Craig Comfort representing the Department and KCDOT; Bob Johns and John Eliason representing the Applicant King County Housing Authority and Keith Goldsmith, John Hall and Anna Nelson, Applicant consultants.

The following exhibits were offered and entered into the record:

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|----------------|--|
| Exhibit No. 1 | Department of Development and Environmental Services (DDES) file no. L09P0001 for Park Lake Homes II project |
| Exhibit No. 2 | Department of Development and Environmental Services (DDES) file no. L09VA001 for Park Lake Homes II project |
| Exhibit No. 3 | DDES Preliminary Report, dated August 11, 2009 |
| Exhibit No. 4 | Application for Land Use Permits received February 26, 2009 |
| Exhibit No. 5 | Demonstration Project Modifications and Waivers Application, received February 26, 2009 |
| Exhibit No. 6 | National Environmental Policy Act (NEPA) Environmental Assessment and Finding of No significant Impact and State Environmental Policy Act (SEPA) Environmental Record for Determination of Non-Significance received March 4, 2009 |
| Exhibit No. 7 | Affidavit of Posting indicating a posting date of March 25, 2009; received by DDES on March 28, 2009 |
| Exhibit No. 8 | Preliminary plat map received May 4, 2009 |
| Exhibit No. 9 | Corrections to exhibit no. 3 |
| Exhibit No. 10 | Technical Information Report for Park Lake Homes II revised April 2009, received by DDES on May 4, 2009 |
| Exhibit No. 11 | Report by Geotechnical Engineering Services received February 26, 2009 |
| Exhibit No. 12 | Road Variance L09V0016 for Park Lake Homes II |
| Exhibit No. 13 | Drainage Adjustment application |
| Exhibit No. 14 | Revisions to Demonstration Project Modifications and Waivers Application, received July 3, 2009 |
| Exhibit No. 15 | King County Assessor maps SE 06-23-04 and NE 07-23-04 |
| Exhibit No. 16 | Offsite Analysis Drainage System Map |
| Exhibit No. 17 | Recreation Space/Recreation Facilities Addendum |
| Exhibit No. 18 | Revised language for condition regarding deeding of public roadways |